



**TENNESSEE HUMAN RIGHTS COMMISSION
CENTRAL OFFICE**

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November 19, 2011
Board of Commissioner's Meeting
Minutes

Commissioners Present:

Commissioner Blalock
Commissioner Cocke
Commissioner Davis
Commissioner Garrett
Commissioner Hewitt
Commissioner McDaniel
Commissioner Miller
Commissioner Osborne
Chair Pierce
Commissioner Starling
Commissioner Wiggins
Commissioner Wurzburg

Commissioners Absent:

Commissioner Jones
Commissioner Pride
Commissioner Walker

Staff Present:

Beverly Watts, Executive Director
Bobbie Porter, Special Assistant to the Executive Director
Tiffany Baker Cox, Deputy Director
Shalini Rose, General Counsel
Richard Gadzekpo, Housing Coordinator
Marcus Thomas, Title VI Compliance Director
Lisa Lancaster, Executive Assistant

Guests:

Paula Casey, THRC Surveyor
Allen Staley, Shared Services Solutions
Matthew Stephenson, THRC
Renee Smith, THRC
Barbara Gardner, THRC

Call to Order

Chair Pierce called the meeting to order at 9:10 a.m. Roll Call was taken. Chair Pierce made a trip to D.C. to visit the Martin Luther King Jr. memorial and asked that we observe a moment of silence to remember Martin Luther King Jr. with this quote "Make a career of humanity. Commit yourself to the noble struggle for equal rights. You will make a greater person of yourself, a greater nation of your country and a finer world to live in." Roll call was taken. Minutes of the September meeting were reviewed. Commissioner Osborne made a motion to accept. Commissioner Miller seconded the motion. A vote was taken and passed.

Chair Pierce thanked Deputy Director, Tiffany Baker Cox for providing a good workshop on diversity at the retreat last night.

Executive Director's Report

Executive Director, Beverly Watts began her report by noting that there are currently four vacancies in the agency. The Deputy Director's position as Ms. Cox has accepted a position at TSU and today is her last day, the Title VI compliance officer position, the Customer Service secretary position and Associate General Counsel position that will be vacated by Seth Yu at the end of the month. We have received authority to fill all of these positions and are moving forward with that task. We hope to accomplish this by the next board meeting.

The Mediation Training for staff will begin on November 28th and Deputy Director Cox will give more information during her report. We continue to do witness verifications per the instructions from the legislature in response to the most recent audit. General Counsel, Shay Rose will share additional information on the changes to our rules during her report.

Thanks were expressed to the housing staff for their work to close 72% of all housing cases within 100 days. It was shared that last year only 29% of all cases were closed within 100 days.

In closing Executive Director Watts highlighted the upcoming challenges for the agency are the departure of the Deputy Director and the Associate General Counsel which will cause General Counsel Rose to have to do double duty; all staff will have to step up and do more to make sure that we continue to operate at the same level; the Legislative Session will begin on January 10 and Commissioners will be contacted and asked to contact the Legislators in their districts on a variety issues.

Looking back on the retreat last night, a report on the survey information will be compiled and shared with Commissioners at the January meeting.

Allen Staley was given the floor to discuss a handout about the Budget hearing that was held on November 10, 2011 attended by Mr. Staley, Executive Director Watts, Deputy Director Cox and Shared Services Director, Carol White which was also attended by the new F & A Commissioner Mark Emkes and also new Director of the Budget Office David Thurman.

The discussion centered around who the Human Rights Commission is and what we do. Those in attendance were impressed with the Mediation Services that are provided by the agency and how that might be a positive tool if used in the civil service context to reduce costs for the state.

On page one of the handout the 2013 THRC total budget was \$2,479,100 which included the \$86,000 reduction that was requested and it was noted that former director of the Budget, Bill Bradley indicated that maybe not all of the requested cuts would be taken. Our reductions were presented in two categories to include operational expenses and equity dollars and his preference would be to use insurance benefits first and recognizes that THRC budget is very lean and no areas below the line in which to cut.

On page 5 the base reduction is shown as \$41,500 reduction in benefits and this may be the only cuts for THRC.

Commissioner Wurzburg asked how we proceed if we don't know what the cuts will be and Mr. Staley answered that the F & A hearings are almost complete and then the Governor will go into deliberations and will submit his recommended budget to the Legislature early next year and at that time we will know the amount of reductions required.

Commissioner McDaniel asked what below the line expenses were and Mr. Staley noted that below the line expenses are operational expenses and not salaries.

Commissioner Garrett made a motion to accept the Executive Directors report and Commissioner Cocke seconded the motion. A vote was taken and passed.

Nominating Committee Report

Commissioner Starling chair of the committee gave a report on the meeting that was held via teleconference on October 11, 2011 with Chair Starling, Commissioner Cocke, Commissioner Osborne, Executive Director Watts and Executive Assistant, Lisa Lancaster in attendance. The committee suggested a slate of the following officers for the 2012 year: Stacy Garrett was nominated to the office of Chair of the Board, Commissioner Ralph Davis was nominated to serve as Vice Chair of the East Division and Commissioner David Cocke was nominated to serve as Secretary. It was agreed that Commissioner Hewitt continue as Vice Chair of the Middle Division and Commissioner Jones continue to serve as Vice Chair of the West Division. Commissioner Wurzburg moved that the slate of officers be accepted and Commissioner Miller seconded the recommendation of the committee. A vote was taken and passed.

Special Presentation

Executive Director Watts read a tribute to Tiffany Baker Cox who was the Deputy Director at THRC from 2007 to 2011 which thanked her for her service, leadership, and vision and wished her success in her new position. She was presented with a gift and spoke briefly and noted how much she enjoyed her time spent with THRC.

Law & Legislation Committee Report

Chair Hewitt reported that the Law and Legislation Committee met on October 12, 2011 via teleconference, and those present were Chair Hewitt, Commissioner Garrett, Commissioner McDaniel, Executive Director Watts, Associate General Counsel, Seth Yu, General Counsel, Shay Rose and Executive Assistant, Lisa Lancaster.

The purpose of the meeting was to consider the proposed changes to THRC rules which were necessary due to statute changes and definitions for clarification. The first change was the incorporation of the English Only Guidelines from EEOC into our rules for clarification. The second change is in the definition section and clarifies "gender" as what is on a person's birth certificate. Two more changes in the definition section include "reasonable cause" and "no reasonable cause" due to a discrepancy in how it used with EEOC and HUD. We took out the portion that states "by a preponderance of the evidence" and inserted "that such determinations of reasonable cause or no reasonable cause would be made using the standards set forth with the policies, regulations, statutes and our contracts with HUD and EEOC."

The Committee recommends approval of the changes. Commissioner Wurzburg asked for additional information on the "English Only" and the gender changes. Chair Hewitt noted that the changes are necessary for compliance. General Counsel Shay Rose noted that the "English Only" statute was passed two years ago and states that it cannot be imposed on employees on break or lunch but can be instituted in situations of business necessity and safety.

With regard to "sex/gender" the statute was passed this year and was part of the Interstate Commerce Act and deals with local government stating that they cannot create any ordinance that is broader than state law. It also gave a definition for "sex" that has never existed before.

General Counsel Rose informed the Commission that once these changes are approved by the Board they will be filed with the Secretary of State's Office and Notice of Rulemaking hearings will be held across the state in Nashville, Knoxville and Jackson for comments on the proposed changes. If comments are made that require changes the Board will have to vote on those changes at our March 2012 meeting. If there are no changes, we can file them. Commissioner Garrett made a motion to accept the proposed changes as presented to the board. Commissioner Hewitt seconded the motion. A roll call vote was taken. All twelve Commissioners present voted "yes" to accept the changes.

Budget and Audit Committee Report

Chair of the Budget and Audit Committee, Commissioner Osborne gave a brief report on the meeting that was held on October 13, 2011 to review a document prepared by THRC staff to the State Auditors as requested by the Joint Operations Committee as a follow up to a finding of the Sunset hearing. The Committee approved the document for submission. Chair Osborne thanked the staff and the Committee for their hard work and dedication.

Commissioner Miller made a motion to accept the report and Commissioner Starling seconded the motion. A vote was taken and passed.

Education and Outreach Committee Report

Chair Wurzburg gave a report on the November 8, 2011 telephonic Education and Outreach Committee meeting and thanked members and staff for their attendance. This was a continuance of the Roundtable Discussions that were begun last year. We are now inviting organizations and individuals to the meetings which are more productive. The next meeting will be December 6, 2011 in Jackson Tennessee. Additional meetings will be held in East Tennessee in February and Middle Tennessee (Columbia) in March.

The Employment Law Seminar is tentatively scheduled for June of 2012 and it was announced that THRC would co-sponsor a Fair Housing event in April of 2012 and that more information would be shared as it becomes available.

At the Commissioner Retreat yesterday it was noted that additional education for our Commissioners was needed.

Commissioner Blalock noted that for the Jackson Roundtable event in December that food/refreshments would be provided as donated. He would like to take full responsibility of any food needs for this event if that would be agreeable to the board. The Board agreed and thanked him for his generosity.

Commissioner Davis made a motion to accept the Education and Outreach Committee report and Commissioner Miller seconded the motion. A vote was taken and passed.

Employment Case Report

Tiffany Baker Cox, Deputy Director reported on the timeframe September 1, 2011 to October 31, 2011 when we received 121 inquiries which resulted in 83 charges being accepted. Of those 71 were dual filed and 12 were THRC only. During this time 82 cases were closed and 72 of those were dual filed and 18 were THRC only. The top three bases were 53% Title VII, 8% Title VII/ADA and 6% ADEA (age). Of the 7 mediations that were held, 1 was successful and 6 reached impasse.

There were 10 settlements that were closed during the timeframe with a total of \$11,122 in monetary benefits to complainants. There were no cause cases during the time period and the open case inventory stands at 298 cases with the average charge age being 227 days.

It appears that inquiries and charges accepted are down and we are doing outreach to try to increase that number. Discussions are taking place with the Tennessee Department of Labor and Workforce Development and also the Tennessee Labor Management Center to conduct training across the state.

We are currently fully staffed with eight full time investigators that have been with us at least a year and they are focused on closing cases. Thanks were offered to staff coordinators and investigators for closing cases faster which is why the charge age is lower. Mediations are also down and settlements remain about the same.

We are currently interviewing for the Title VI compliance officer position and preparing to interview for the secretary position in Customer Service. A free Mediation Training will be

conducted beginning November 28, 2011 with Monica Alexander, Michael Giove and Richard Gadzekpo attending. The All staff meeting will be December 13, 2011 and all Commissioners are invited to attend. The Employee of the Year will be named and team building exercises will take place.

Associate General Counsel, Seth Yu will be returning to China so we will begin the process for filing that position also very soon.

Commissioner Wurzburg wanted to remind the commissioner's that Mediations are not always about money. Sometimes it is about dignity and we should always think about other benefits.

A motion to accept the Employment report was made by Commissioner Hewitt and seconded by Commissioner Wurzburg. A vote was taken and passed.

Housing Case Report

The housing report was given by Housing Coordinator, Richard Gadzekpo who expressed thanks to the staff and legal department for reaching the HUD standard of closing cases within 100 days. During the September 1, 2011 to October 31, 2011 timeframe we received 32 inquiries and accepted 25 as complaints with the top bases being disability and race but noted a marked increase in retaliation complaints.

During the timeframe 19 cases were closed with 14 cases or 74% being closed within 100 days and 5 cases in under 150 days. As of October 31, 2011 we were at 76% of cases closed within 100 days and 16% of cases closed within 150 days.

There are currently 3 housing investigators in Washington DC at the HUD NFHTA Academy. Michael Giove and I will attend the Mediation Training in November.

A motion to accept the housing report was made by Commissioner Cocke and seconded by Commissioner Hewitt. A vote was taken and passed.

Legal Report

General Counsel, Shay Rose reported on the September 1, 2011 to October 31, 2011 timeframe during which time legal has closed 72 employment cases, 4 were administrative closures. One case has been caused and legal has reviewed 48 investigative plans and completed 6 reconsiderations. In housing 19 cases were closed and 8 were conciliations. We have 3 cause cases and reviewed 13 investigative plans and completed 21 copy requests.

Seth Yu will be leaving by the end of the month and we hope to have that position filled by the new year. The Legislative session begins on January 10, 2012 at noon.

In employment, the cause case update is the corrections officer for terms and conditions and work is progressing on the case. In housing offers are still going back and forth on the "Chinese stir fry case." The respondent's attorney has left and work is going forward.

In a new case, an ad was placed on Craig's list requesting a white male tenant. It turns out that the man was a squatter and was trying to rent out a room in a house that a tree fell on and it has no electricity.

Commissioner Hewitt made a motion to accept the legal report. Commissioner Davis seconded the motion. A vote was taken and passed.

Outreach & Education

Bobbie Porter reported on the September 1, 2011 to October 31, 2011 timeframe and noted that a table has been added to her report to provide a summary of the events for the period. During the period we participated in 7 exhibits attended 11 educational presentations or speaking events and 8 events where we supported another agency or organization with a total of 29 events for the time period with 41 events for the year. At these events we reached 3,200 people and 8,400 for the year to date.

Executive Director Watts sat on a panel focused on racial profiling with TIRRC in Shelbyville which resulted in a report that detailed concerns they had and we can share that with any Commissioner who would like the information. About 100 people attended this event.

Thanks were offered to Chair Pierce who spoke at two different events and shared THRC brochures at both. Hispanic Heritage Month was celebrated by the Nashville Hispanic Chamber of Commerce and we shared in those events. Thanks were offered to Commissioner McDaniel and Commissioner Osborne for representing THRC at the Chattanooga NAACP Ruby Hurley Dinner and the Knoxville Urban League Gala.

The Jackson Roundtable will be December 6, 2011 and thanks were offered to Commissioner Blalock who donated the venue which is the AIM Building at 721 South Highland Avenue and has also agreed to furnish the refreshments for the event. Over 160 invitations have been sent and no RSVP's have been received yet. The event is open to the public and will be announced on radio and facebook. A press release has been sent out. The event will start at 11:00 am and end at 3:00 pm. We will be partnering with the Jackson NAACP, the Memphis District office of the EEOC and the West Tennessee Legal Services on this event.

Commissioner Pride was acknowledged for his work on this event. Commissioner Wurzburg and Cocke and Jones were also invited to attend this event. Commissioner Davis delivered a plaque from the NAACP recognizing our participation in the September 2011 State Convention in Murfreesboro.

Commissioner Miller made a motion to accept the Communications report. Commissioner Garrett seconded the motion. A vote was taken and passed.

Title VI Compliance Report

Marcus Thomas, Title VI Compliance Program Director reported on the time frame of September 1, 2011 to October 31, 2011. To date, 41 Implementation plans have been

submitted and currently we have reviewed about one fourth of those received. Of those, 10 were sent back with comments.

An LEP working group has been formed with 12 departments and 18 attendees present along with the THRC Executive Team and staff. The discussions will address concerns and challenges, and will allow for the sharing of resources.

We are currently interviewing for the ASA III Compliance Review Officer position that will conduct onsite compliance reviews and assist with other duties as assigned.

During the period 67 inquiries were received and 17 complaints filed and 7 cases were closed. Commissioner Osborne asked if the Title VI office provides oversight or asks questions or issue a letter of findings on the complaints filed. Director Thomas noted that questions are asked and oversight given on a consistent basis. Executive Director Watts added that in the past Title VI Implementation Plans were sent to the Comptroller's office and no follow up or interaction was provided so the review that is taking place and the process that is followed is new to all departments.

Commissioner Wurzburg asked if there is an OFCCP overlooking us. Executive Director Watts noted that OFCCP is responsible for federal contracting dollars and they look at Executive Order 11246. She also noted that only three states have a functioning Title VI internal review and they are Tennessee, Washington and Kentucky. With 47% of our state budget being federal funds it is important that we don't have any problems. This office now has responsibility for the Implementation Plans, Training and oversight for Title VI.

Director Thomas noted that the Title VI Annual Report is on our website and additional Title VI training will be given to Commissioners at the March Board Meeting.

A motion to accept the Title VI report was made by Commissioner Starling and seconded by Commissioner Osborne. A vote was taken and passed.

Announcements from Chair of the Board

Chair Pierce announced the committee assignments for 2012 are as follows: Law and Legislation: Chair-Jocelyn Wurzburg, Paul McDaniel, Ralph Davis, Dennis Blalock, Robert Jones, A.J. Starling and Karla Hewitt. Education and Outreach: Chair-Paul McDaniel, Jocelyn Wurzburg, David Cocke, Ruby Miller, A.J. Starling, Spencer Wiggins, Joseph Walker, Patricia Pierce and Edwin Osborne. Budget and Audit: Chair-Ruby Miller, Edwin Osborne, David Cocke, Spencer Wiggins, Nathan Pride, Stacey Garrett, Robert Jones, Ruby Miller, Ralph Davis and Karla Hewitt.

Commissioner Osborne made a motion to accept these committee assignments and Commissioner Hewitt seconded the motion. A vote was taken and passed.

Chair Pierce thanked the Commission for the pleasure and honor of serving as the Chair of the Commission for the last three years. She has enjoyed working with each of the staff and Commissioners and she still has two more years on her term with the Commission. She thanked Commissioner Wiggins for guiding her.

Incoming Chair Stacey Garrett noted that she had big shoes to fill and thanked Chair Pierce for her dedication and a noted source of inspiration for all members of the Commission. She presented outgoing Chair Pierce with a certificate from Governor Haslam for your service and a small token of appreciation which was a Title IX bracelet and a gavel and base.

Executive Director Watts announced that a going away luncheon will be held today for Deputy Director Cox and Associate General Counsel Seth Yu and all are invited to attend at 12 noon.

Announcements

Paula Casey noted that she has received wonderful feedback in working with the customer service surveys and thanked Bobbie Porter, Frank Guzman, Lisa Lancaster, Beverly Watts and Chair Pierce for their work.

Commissioner McDaniel made a motion to adjourn. It was seconded by Commissioner Blalock. A vote was taken and passed.

The meeting was adjourned at 11:20 a.m.